IN THE HIGH COURT OF JUDICATURE AT BOMBAY

Appellate Side

Writ Petition No.2l77 of 2005

Kishor Bapurao Sonparote....Petitioner

vs

State of Mah and ors...Respondents

Mr.R.K.Mendadkar for petitioner

Mr.C.R.Sonawane AGP for State

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.

Dated 5.7.2005

P.C:

. Rule. Mr. C.R.Sonawane, learned AGP waives service for respondents. By consent, rule is made returnable forthwith.

2 By this petition under Article 226 of the Constitution, the petitioner seeks to challenge the order dated 28.l.2005 passed by the Caste Scrutiny Committee invalidating the caste certificate of the petitioner. The petitioner was granted caste certificate as belonging to ‘Halbi’ Scheduled Tribe by the Competent Authority on l2.l.l982. In l994 the petitioner was selected to the post of Junior Engineer by the respondent no.3 Board. The petitioner applied to the Scrutiny Committee for issuance of caste validity certificate. The Caste

Scrutiny Committee instead of deciding the caste claim of the petitioner as belonging to 'Halbi' Scheduled Tribe vide its order dated 30.7.l994 granted conditional caste validity certificate certifying that the petitioner belongs to 'Halba Koshti'. On the basis of this caste validity certificate petitioner was employed in the respondent no.3 Board in the post of Junior Engineer and later on he was promoted to the post of Asst Engineer.

3. The Constitution Bench of the Supreme Court pronounced the judgment in the case of State of Maharashtra vs Milind (200l (l) SCC 4) holding that Halba Koshti cannot be treated to be a sub-tribe of Halba/Halbi. It was held that it is not permissible for the court, tribunal or any authority to assume jurisdiction and inquire and take a view to declare that the caste or tribe or part of a group or tribe is included in the Presidential Orders in one entry or other although they are not expressly or specifically included. In view of the decision of the Constitution Bench the Scrutiny Committee issued notice to the petitioner dated 7.l.2005 directing him to appear before the Committee on l7.l.2005. In pursuance of

the said notice petitioner appeared before the Committee and produced evidence in support of his case that he belongs to Halbi Scheduled Tribe. In support of his caste claim the petitioner has produced extracts of school records as well as birth and death register where the caste of the petitioner's father and his uncles has been recorded as Halbi . All these documents are of pre-Constitution period and the oldest document is of l9l3. The Caste Scrutiny Committee,however, without verifying the documents of the petitioner straightway passed the order dated 28.l.2005 canceling the caste certificate of the petitioner.

4. Mr Mendadkar, learned counsel appearing for the petitioner submitted and not without sufficient force that the order of the Scrutiny Committee shows total non application of mind. There is no analysis of the documents produced in support of the caste claim and no reasons are given as to why the documents produced by the petitioner are not worthy of acceptance. The order does not discuss merits of the case of the petitioner and it has been merely observed that in view of the Supreme Court judgment in Milind's case it is incumbent on the Scrutiny Committee to cancel the conditional

validity certificate. In the circumstances aforesaid the impugned order cannot be sustained. We therefore quash and set aside the impugned order passed by the Caste Scrutiny Committee and remit the matter back to the Committee to decide the case afresh in the light of the evidence produced by the petitioner and in accordance with law expeditiously and preferably within a period of 6 months. Petition stands disposed of accordingly.